



March 13, 2015

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## ENGROSSED HOUSE BILL No. 1110

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DIGEST OF HB 1110 (Updated March 11, 2015 11:50 am - DI 106)

**Citations Affected:** IC 33-23; IC 33-33.

**Synopsis:** Magistrates. Allows the judges of the Clark circuit court to jointly appoint a third full-time magistrate. Allows the judge of the Greene circuit court and the judge of the Greene superior court to jointly appoint one full-time magistrate. Allows the judges of the Madison circuit court to jointly appoint a second full-time magistrate. Allows the judges of the Marion superior court to appoint four additional full-time magistrates after December 31, 2015. Allows the judge of the Porter circuit court to appoint one full-time magistrate. Allows the judge of the Vanderburgh circuit court to appoint a second full-time magistrate. Allows a magistrate to: (1) approve and accept criminal plea agreements; (2) approve agreed settlements concerning civil matters; and (3) approve decrees of dissolution, settlement  
(Continued next page)

**Effective:** July 1, 2015.

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**Stemler, Steuerwald, Clere,  
Lawson L**

(SENATE SPONSORS — STEELE, GROOMS, RANDOLPH)

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January 8, 2015, read first time and referred to Committee on Courts and Criminal Code.  
January 22, 2015, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

February 17, 2015, amended, reported — Do Pass.

February 23, 2015, read second time, amended, ordered engrossed.

February 24, 2015, engrossed. Read third time, passed. Yeas 92, nays 0.

SENATE ACTION

March 2, 2015, read first time and referred to Committee on Judiciary.

March 12, 2015, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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agreements, and any other agreements of the parties in domestic relations actions or paternity actions. Allows the: (1) judge of the St. Joseph circuit court to appoint one additional full-time magistrate, without considering the political affiliation of a candidate for magistrate, for a total of three full-time magistrates; and (2) judges of the St. Joseph superior court to jointly appoint two additional full-time magistrates for a total of four full-time magistrates, not more than two of whom may be from the same political party. Provides that meetings of the St. Joseph judicial nominating commission (commission) must be held at a place in: (1) the St. Joseph County courthouse; or (2) another building owned or operated by St. Joseph County; in South Bend as the clerk of the St. Joseph superior court may arrange.



March 13, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1110

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A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 33-23-5-5, AS AMENDED BY P.L.127-2008,  
2       SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2015]: Sec. 5. A magistrate may do any of the following:  
4           (1) Administer an oath or affirmation required by law.  
5           (2) Solemnize a marriage.  
6           (3) Take and certify an affidavit or deposition.  
7           (4) Order that a subpoena be issued in a matter pending before the  
8           court.  
9           (5) Compel the attendance of a witness.  
10          (6) Punish contempt.  
11          (7) Issue a warrant.  
12          (8) Set bail.  
13          (9) Enforce court rules.  
14          (10) Conduct a preliminary, an initial, an omnibus, or other  
15          pretrial hearing.  
16          (11) Conduct an evidentiary hearing or trial.

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(12) Receive a jury's verdict.

(13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

(14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described in section 9 of this chapter.

(15) Enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

**(16) Approve and accept criminal plea agreements.**

**(17) Approve agreed settlements concerning civil matters.**

**(18) Approve:**

**(A) decrees of dissolution;**

**(B) settlement agreements; and**

**(C) any other agreements;**

**of the parties in domestic relations actions or paternity actions.**

SECTION 2. IC 33-23-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) Except as provided under subsection (b), a magistrate shall report findings in an evidentiary hearing, a trial, or a jury's verdict to the court. The court shall enter the final order.

(b) If a magistrate presides at a criminal trial **or a guilty plea hearing**, the magistrate may do the following:

(1) Enter a final order.

(2) Conduct a sentencing hearing.

(3) Impose a sentence on a person convicted of a criminal offense.

SECTION 3. IC 33-33-10-2, AS AMENDED BY P.L.201-2011, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Clark County constitutes the fourth judicial circuit.

(b) The judges of the Clark circuit court may jointly appoint ~~two (2)~~ **three (3)** full-time magistrates under IC 33-23-5 to serve the circuit court.

(c) A magistrate continues in office until **jointly** removed by the judges of the Clark circuit court.

SECTION 4. IC 33-33-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) Greene County constitutes the sixty-third judicial circuit.

(b) **The judge of the Greene circuit court and the judge of the Greene superior court may jointly appoint one (1) full-time**



1 magistrate under IC 33-23-5 to serve the circuit and superior  
2 courts.

3 (c) The magistrate continues in office until jointly removed by  
4 the judge of the Greene circuit court and the judge of the Greene  
5 superior court.

6 SECTION 5. IC 33-33-48-7.5, AS AMENDED BY P.L.201-2011,  
7 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2015]: Sec. 7.5. (a) The judges of the Madison circuit court  
9 may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates**  
10 under IC 33-23-5 to serve the circuit court.

11 (b) ~~The A~~ magistrate continues in office until **jointly** removed by  
12 the judges of the circuit court.

13 SECTION 6. IC 33-33-49-32, AS AMENDED BY P.L.100-2013,  
14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2015]: Sec. 32. (a) In addition to the magistrate appointed  
16 under section 31 of this chapter, the judges of the superior court may,  
17 by a vote of a majority of the judges, appoint:

- 18 ~~(1) eight (8) full-time magistrates under IC 33-23-5 after~~  
19 ~~December 31, 2007; and until January 1, 2014; not more than four~~  
20 ~~(4) of whom may be from the same political party; and~~  
21 ~~(2) (1) twelve (12) full-time magistrates under IC 33-23-5 after~~  
22 ~~December 31, 2013, and until January 1, 2016, not more than~~  
23 ~~six (6) of whom may be from the same political party; and~~  
24 **(2) sixteen (16) full-time magistrates under IC 33-23-5 after**  
25 **December 31, 2015, not more than eight (8) of whom may be**  
26 **from the same political party.**

27 (b) The magistrates continue in office until removed by the vote of  
28 a majority of the judges of the court.

29 (c) A party to a superior court proceeding that has been assigned to  
30 a magistrate appointed under this section may request that an elected  
31 judge of the superior court preside over the proceeding instead of the  
32 magistrate to whom the proceeding has been assigned. A request under  
33 this subsection must be in writing and must be filed with the court:

- 34 (1) in a civil case, not later than:  
35 (A) ten (10) days after the pleadings are closed; or  
36 (B) thirty (30) days after the case is entered on the  
37 chronological case summary, in a case in which the defendant  
38 is not required to answer; or  
39 (2) in a criminal case, not later than ten (10) days after the  
40 omnibus date.

41 Upon a timely request made under this subsection by either party, the  
42 magistrate to whom the proceeding has been assigned shall transfer the



proceeding back to the superior court judge.

SECTION 7. IC 33-33-64-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 23. **(a) The judge of the Porter circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge of the circuit court.**

**(b)** The judges of the Porter superior court may jointly appoint two (2) full-time magistrates under IC 33-23-5. The magistrates continue in office until **jointly** removed by the judges of the superior court.

SECTION 8. IC 33-33-71-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a)** The judge of the St. Joseph circuit court may appoint ~~two (2)~~ **three (3)** full-time magistrates under IC 33-23-5 to serve the circuit court. **In making an appointment under this section, the judge may not consider the political affiliation of a candidate for magistrate.**

**(b)** A magistrate continues in office until removed by the judge.

SECTION 9. IC 33-33-71-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 36. (a) When a vacancy occurs in the St. Joseph superior court, the clerk of the court shall promptly notify the chairman of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following this notice. The commission shall submit its nominations of five (5) candidates for each vacancy and certify them to the governor as promptly as possible, and not later than sixty (60) days after the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the serving governor, but the vacancy has not yet occurred, the clerk shall notify the commission immediately. The commission may within fifty (50) days of the notice of vacancy make its nominations and submit to the governor the names of five (5) persons nominated for the forthcoming vacancy.

**(b)** Meetings of the commission shall be called by the chairman or, if the chairman fails to call a necessary meeting, upon the call of any four (4) members of the commission. The chairman, whenever the chairman considers a meeting necessary, or upon the request by any four (4) members of the commission for a meeting, shall give each member of the commission at least five (5) days written notice by mail of the time and place of every meeting unless the commission at its previous meeting designated the time and place of its next meeting.

**(c)** Meetings of the commission must be held at a place in:

**(1)** the St. Joseph County courthouse; **or**

**(2)** another building owned or operated by St. Joseph County; in South Bend as the clerk of the St. Joseph superior court may arrange.



(d) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members. ~~attending a meeting.~~ Four (4) members are required to constitute a quorum at a meeting. The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties.

SECTION 10. IC 33-33-71-69, AS AMENDED BY P.L.127-2008, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 69. (a) The **superior** court may **jointly** appoint ~~two (2)~~ **four (4)** full-time magistrates under IC 33-23-5 to serve the court using the selection method provided by IC 36-1-8-10(b)(1) or ~~IC 36-1-8-10(b)(2).~~ **IC 36-1-8-10(b)(3).** Not more than ~~one (1)~~ **two (2)** of the magistrates appointed under this section may be a ~~member~~ **members** of the same political party.

(b) A magistrate continues in office until **jointly** removed by the judges of the court.

SECTION 11. IC 33-33-82-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The judge of the Vanderburgh circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-23-5. ~~The~~

(b) A magistrate continues in office until removed by the judge.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1110, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1110 as introduced.)

WASHBURN

Committee Vote: Yeas 10, Nays 0

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1110, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between line 1 and the enacting clause, begin a new paragraph and insert:

"SECTION 1. IC 33-23-5-5, AS AMENDED BY P.L.127-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. A magistrate may do any of the following:

- (1) Administer an oath or affirmation required by law.
- (2) Solemnize a marriage.
- (3) Take and certify an affidavit or deposition.
- (4) Order that a subpoena be issued in a matter pending before the court.
- (5) Compel the attendance of a witness.
- (6) Punish contempt.
- (7) Issue a warrant.
- (8) Set bail.
- (9) Enforce court rules.
- (10) Conduct a preliminary, an initial, an omnibus, or other pretrial hearing.
- (11) Conduct an evidentiary hearing or trial.
- (12) Receive a jury's verdict.
- (13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.
- (14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as



described in section 9 of this chapter.

(15) Enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

**(16) Approve and accept criminal plea agreements.**

**(17) Approve agreed settlements concerning civil matters.**

**(18) Approve:**

**(A) decrees of dissolution;**

**(B) settlement agreements; and**

**(C) any other agreements;**

**of the parties in domestic relations actions or paternity actions."**

Page 1, after line 9, begin a new paragraph and insert:

"SECTION 4. IC 33-33-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. **(a)** Greene County constitutes the sixty-third judicial circuit.

**(b) The judge of the Greene circuit court and the judge of the Greene superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.**

**(c) The magistrate continues in office until jointly removed by the judge of the Greene circuit court and the judge of the Greene superior court.**

SECTION 3. IC 33-33-49-32, AS AMENDED BY P.L.100-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 32. (a) In addition to the magistrate appointed under section 31 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint:

~~(1) eight (8) full-time magistrates under IC 33-23-5 after December 31, 2007, and until January 1, 2014, not more than four~~

~~(4) of whom may be from the same political party; and~~

~~(2) (1) twelve (12) full-time magistrates under IC 33-23-5 after December 31, 2013, and until January 1, 2016, not more than six (6) of whom may be from the same political party; and~~

**(2) sixteen (16) full-time magistrates under IC 33-23-5 after December 31, 2015, not more than eight (8) of whom may be from the same political party.**

**(b) The magistrates continue in office until removed by the vote of a majority of the judges of the court.**

**(c) A party to a superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected**



judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. A request under this subsection must be in writing and must be filed with the court:

- (1) in a civil case, not later than:
  - (A) ten (10) days after the pleadings are closed; or
  - (B) thirty (30) days after the case is entered on the chronological case summary, in a case in which the defendant is not required to answer; or
- (2) in a criminal case, not later than ten (10) days after the omnibus date.

Upon a timely request made under this subsection by either party, the magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the superior court judge.

SECTION 5. IC 33-33-82-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a)** The judge of the Vanderburgh circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-23-5. ~~The~~

**(b)** A magistrate continues in office until removed by the judge." Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1110 as printed January 23, 2015.)

BROWN T

Committee Vote: yeas 15, nays 0.

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#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1110 be amended to read as follows:

Page 2, between lines 18 and 19, begin a new paragraph and insert: "SECTION 2. IC 33-23-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) Except as provided under subsection (b), a magistrate shall report findings in an evidentiary hearing, a trial, or a jury's verdict to the court. The court shall enter the final order.

(b) If a magistrate presides at a criminal trial **or a guilty plea hearing**, the magistrate may do the following:

- (1) Enter a final order.
- (2) Conduct a sentencing hearing.

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(3) Impose a sentence on a person convicted of a criminal offense."

Renumber all SECTIONS consecutively.

(Reference is to HB 1110 as printed February 17, 2015.)

SPEEDY

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#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1110 be amended to read as follows:

Page 2, between lines 37 and 38, begin a new paragraph and insert:  
 "SECTION 4. IC 33-33-48-7.5, AS AMENDED BY P.L.201-2011, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.5. (a) The judges of the Madison circuit court may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-23-5 to serve the circuit court.

(b) ~~The A~~ magistrate continues in office until **jointly** removed by the judges of the circuit court."

Page 3, between lines 26 and 27, begin a new paragraph and insert:  
 "SECTION 6. IC 33-33-64-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 23. (a) **The judge of the Porter circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge of the circuit court.**

(b) The judges of the Porter superior court may jointly appoint two (2) full-time magistrates under IC 33-23-5. The magistrates continue in office until **jointly** removed by the judges of the superior court."

Renumber all SECTIONS consecutively.

(Reference is to HB 1110 as printed February 17, 2015.)

AUSTIN



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1110, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 8. IC 33-33-71-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The judge of the St. Joseph circuit court may appoint ~~two (2)~~ **three (3)** full-time magistrates under IC 33-23-5 to serve the circuit court. **In making an appointment under this section, the judge may not consider the political affiliation of a candidate for magistrate.**

(b) A magistrate continues in office until removed by the judge.

SECTION 9. IC 33-33-71-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 36. (a) When a vacancy occurs in the St. Joseph superior court, the clerk of the court shall promptly notify the chairman of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following this notice. The commission shall submit its nominations of five (5) candidates for each vacancy and certify them to the governor as promptly as possible, and not later than sixty (60) days after the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the serving governor, but the vacancy has not yet occurred, the clerk shall notify the commission immediately. The commission may within fifty (50) days of the notice of vacancy make its nominations and submit to the governor the names of five (5) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by the chairman or, if the chairman fails to call a necessary meeting, upon the call of any four (4) members of the commission. The chairman, whenever the chairman considers a meeting necessary, or upon the request by any four (4) members of the commission for a meeting, shall give each member of the commission at least five (5) days written notice by mail of the time and place of every meeting unless the commission at its previous meeting designated the time and place of its next meeting.

(c) Meetings of the commission must be held at a place in:

(1) the St. Joseph County courthouse; or

(2) **another building owned or operated by St. Joseph County;**

in South Bend as the clerk of the St. Joseph superior court may

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arrange.

(d) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members. ~~attending a meeting.~~ Four (4) members are required to constitute a quorum at a meeting. The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties.

SECTION 10. IC 33-33-71-69, AS AMENDED BY P.L.127-2008, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 69. (a) The **superior** court may **jointly** appoint ~~two (2)~~ **four (4)** full-time magistrates under IC 33-23-5 to serve the court using the selection method provided by IC 36-1-8-10(b)(1) or ~~IC 36-1-8-10(b)(2).~~ **IC 36-1-8-10(b)(3).** Not more than ~~one (1)~~ **two (2)** of the magistrates appointed under this section may be ~~a member~~ **members** of the same political party.

(b) A magistrate continues in office until **jointly** removed by the judges of the court."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1110 as reprinted February 24, 2015.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0.

